

records, as specified in this section, for any items exported or reexported pursuant to License Exception RPL to repair, replace, or service previously lawfully exported or reexported items classified under ECCNs 2A983, 2A984, 2D983 and 2D984 or a “600 Series” ECCN. The following information must be maintained for each such export or reexport transaction:

- (i) A description of the item replaced, repaired or serviced;
 - (ii) The type of repair or service;
 - (iii) Certification of the destruction or return of item replaced;
 - (iv) Location of the item replaced, repaired or serviced;
 - (v) The name and address of those who received the items for replacement, repair, or service;
 - (vi) Quantity of items shipped; and
 - (vii) Country of ultimate destination.
- (2) Records maintained pursuant to this section may be requested at any time by an appropriate BIS official as set forth in § 762.7 of the EAR. Records that must be included in the annual or semi-annual reports of exports and re-exports of “600 Series” items under the authority of License Exception RPL are described in § 743.4 and § 762.2(b)(4), (b)(47) and (b)(48).

[78 FR 22712, Apr. 16, 2013, as amended at 78 FR 61901, Oct. 4, 2013]

§ 740.11 Governments, international organizations, international inspections under the Chemical Weapons Convention, and the International Space Station (GOV).

This License Exception authorizes exports and reexports for international nuclear safeguards; U.S. government agencies or personnel; agencies of co-operating governments; international inspections under the Chemical Weapons Convention; and the International Space Station.

(a) *International safeguards*—(1) *Scope*. The International Atomic Energy Agency (IAEA) is an international organization that establishes and administers safeguards, including Additional Protocols, designed to ensure that special nuclear materials and other related nuclear facilities, equipment, and material are not diverted from peaceful purposes to non-peaceful purposes. European Atomic Energy Community

(Euratom) is an international organization of European countries with headquarters in Luxembourg. Euratom establishes and administers safeguards designed to ensure that special nuclear materials and other related nuclear facilities, equipment, and material are not diverted from peaceful purposes to non-peaceful purposes. This paragraph (a) authorizes exports and reexports of commodities or software to the IAEA and Euratom, and reexports by IAEA and Euratom for official international safeguard use, as follows:

- (i) Commodities or software consigned to the IAEA at its headquarters in Vienna, Austria or its field offices in Toronto, Ontario, Canada or in Tokyo, Japan for official international safeguards use.
- (ii) Commodities or software consigned to the Euratom Safeguards Directorate in Luxembourg, Luxembourg for official international safeguards use.
- (iii) Commodities or software consigned to IAEA or Euratom may be re-exported to any country for IAEA or Euratom international safeguards use provided that IAEA or Euratom maintains control of or otherwise safeguards the commodities or software and returns the commodities or software to the locations described in paragraphs (a)(1)(i) and (a)(1)(ii) of this section when they become obsolete, are no longer required, or are replaced.

(iv) Commodity or software shipments may be made by persons under direct contract with IAEA or Euratom, or by Department of Energy National Laboratories as directed by the Department of State or the Department of Energy.

(v) The monitoring functions of IAEA and Euratom are not subject to the restrictions on prohibited safeguarded nuclear activities described in § 744.2(a)(3) of the EAR.

(vi) When commodities or software originally consigned to IAEA or Euratom are no longer in IAEA or Euratom official safeguards use, such commodities may be disposed of by destruction or by reexport or transfer in accordance with the EAR.

(2) *Restrictions*. (i) Items on the Sensitive List (see Supplement No. 6 to

part 774 of the EAR) may not be exported, reexported, or transferred (in-country) under this paragraph (a), *except* to the countries listed in Country Group A:5 (See Supplement No.1 to part 740 of the EAR).

(ii) Items on the Very Sensitive List (see Supplement No. 7 to part 774 of the EAR) may not be exported, reexported, or transferred (in-country) under this paragraph (a).

(iii) Encryption items controlled for EI reasons under ECCNs 5A002, 5D002, or 5E002 may not be exported, reexported, or transferred (in-country) under this paragraph (a). See § 740.17 of the EAR (License Exception ENC) for possible alternative license exception authorization.

(iv) Without prior authorization from the Bureau of Industry and Security, nationals of countries in Country Group E:1 (see Supplement No. 1 to this part) may not physically or computationally access computers that have been enhanced by “electronic assemblies,” which have been exported or reexported under License Exception GOV and have been used to enhance such computers by aggregation of processors so that the APP of the aggregation exceeds the APP parameter set forth in ECCN 4A003.b.

(v) “600 series” items may not be exported or reexported under this paragraph (a), *except* to the countries listed in Country Group A:5 (see Supplement No.1 to this part).

(b) *United States Government.* (1) *Scope.* The provisions of this paragraph (b) authorize exports, reexports, and transfers (in-country) to personnel and agencies of the U.S. Government and certain exports by the Department of Defense. “Agency of the U.S. Government” includes all civilian and military departments, branches, missions, government-owned corporations, and other agencies of the U.S. Government, but does not include such national agencies as the American Red Cross or international organizations in which the United States participates such as the Organization of American States. Therefore, shipments may not be made to these non-governmental national or international agencies, except as provided in paragraph (b)(2)(i) of this sec-

tion for U.S. representatives to these organizations.

(2) *Eligibility*—(i) *Items for personal use by personnel and agencies of the U.S. Government.* This provision is available for items in quantities sufficient only for the personal use of members of the U.S. Armed Forces or civilian personnel of the U.S. Government (including U.S. representatives to public international organizations), and their immediate families and household employees. Items for personal use include household effects, food, beverages, and other daily necessities.

(ii) *Exports, reexports, and transfers (in-country) made by or consigned to a department or agency of the U.S. Government.* This paragraph authorizes exports, reexports, and transfers of items when made by or consigned to a department or agency of the U.S. Government solely for its official use or for carrying out any U.S. Government program with foreign governments or international organizations that is authorized by law and subject to control by the President by other means. This paragraph does not authorize a department or agency of the U.S. Government to make any export, reexport, or transfer that is otherwise prohibited by other administrative provisions or by statute. Contractor support personnel of a department or agency of the U.S. Government are eligible for this authorization when in the performance of their duties pursuant to the applicable contract or other official duties. ‘Contractor support personnel’ for the purpose of this provision means those persons who provide administrative, managerial, scientific or technical support under contract to a U.S. Government department or agency (e.g., contractor employees of Federally Funded Research Facilities or Systems Engineering and Technical Assistance contractors). This authorization is not available when a department or agency of the U.S. Government acts as a transmittal agent on behalf of a non-U.S. Government person, either as a convenience or in satisfaction of security requirements.

(iii) *Exports, reexports, and transfers (in-country) made for or on behalf of a department or agency of the U.S. Government.*

(A) This paragraph authorizes exports, reexports, and transfers (in-country) of items solely for use by a department or agency of the U.S. Government, when:

(1) The items are destined to a U.S. person; and

(2) The item is exported, reexported, or transferred (in-country) pursuant to a contract between the exporter and a department or agency of the U.S. Government;

(B) This paragraph authorizes exports, reexports, and transfers (in-country) of items to implement or support any U.S. Government cooperative program, project, agreement, or arrangement with a foreign government or international organization or agency that is authorized by law and subject to control by the President by other means, when:

(1) The agreement is in force and in effect, or the arrangement is in operation;

(2) The exporter, reexporter, or transferor obtains a written authorization from the Secretary or agency head of the U.S. Government department or agency responsible for the program, agreement, or arrangement, or his or her designee, authorizing the exporter, reexporter, or transferor to use this license exception. The written authorization must include the scope of items to be shipped under this license exception; the end users and consignees of the items; and any restrictions on the export, reexport, or transfer (in-country) (including any restrictions on the foreign release of technology);

(3) The exporter, reexporter, or transferor has a contract with a department or agency of the U.S. Government for the provision of the items in furtherance of the agreement, or arrangement; and

(4) The items being exported, reexported, or transferred (in-country) are not controlled for Chemical Weapons Convention (CW) or proliferation of chemical and biological weapons (CB) reasons;

(C) This paragraph authorizes the temporary export, reexport, or transfer (in-country) of an item in support of any foreign assistance or sales program authorized by law and subject to the

control of the President by other means, when:

(1) The item is provided pursuant to a contract between the exporter, reexporter, or transferor and a department or agency of the U.S. Government; and

(2) The exporter, reexporter, or transferor obtains a written authorization from the Secretary or agency head of the U.S. Government department or agency responsible for the program, or his or her designee, authorizing the exporter, reexporter, or transferor to use this license exception. The written authorization must include the scope of items to be shipped under this license exception; the end users and consignees of the items; and any restrictions on the export, reexport, or transfer (in-country) (including any restrictions on the foreign release of technology);

(D) This paragraph authorizes the export, reexport, or transfer of commodities or software at the direction of the U.S. Department of Defense for an end use in support of an Acquisition and Cross Servicing Agreement (ACSA), when:

(1) The ACSA is between the U.S. Government and a foreign government or an international organization and is in force and in effect;

(2) The exporter, reexporter, or transferor has a contract with the department or agency of the U.S. government in furtherance of the ACSA; and

(3) The exporter, reexporter, or transferor obtains a written authorization from the Secretary or agency head of the U.S. Government department or agency responsible for the ACSA, or his or her designee, authorizing the exporter, reexporter, or transferor to use this license exception. The written authorization must include the scope of items to be shipped under this license exception; the end-users and consignees of the items; and any restrictions on the export, reexport, or transfer (in-country);

(E) This paragraph authorizes the export, reexport, or transfer (in-country) of Government Furnished Equipment (GFE) made by a U.S. Government contractor, when:

(1) The GFE will not be provided to any foreign person;

(2) The export, reexport, or transfer (in-country) is pursuant to a contract with a department or agency of the U.S. Government; and

(3) Shipment documents must include the following statement: "Property of [insert U.S. Government department, agency, or service]. Property may not enter the trade of the country to which it is shipped. Authorized under License Exception GOV. U.S. Government point of contact: [Insert name and telephone number]."

(F) *Electronic Export Information.* Electronic Export Information (EEI) must be filed in the Automated Export System (AES) for any export made pursuant to paragraph (b)(iii) of this section. The EEI must identify License Exception GOV as the authority for the export and indicate that the applicant has received the relevant documentation from the contracting U.S. Government department, agency, or service. The Internal Transaction Number assigned by AES must be properly annotated on shipping documents (bill of lading, airway bill, other transportation documents, or commercial invoice).

(G) The exporter, reexporter, or transferor must obtain an authorization, if required, before any item previously exported, reexported, or transferred (in-country) under this paragraph is resold, transferred, reexported, transshipped, or disposed of to an end user for any end use, or to any destination other than as authorized by this paragraph (e.g., property disposal of surplus items outside of the United States), unless:

(1) The transfer is pursuant to a grant, sale, lease, loan, or cooperative project under the Arms Export Control Act or the Foreign Assistance Act of 1961, as amended; or

(2) The item has been destroyed or rendered useless beyond the possibility of restoration.

(iv) *Items exported at the direction of the U.S. Department of Defense.* This paragraph authorizes items to be exported, reexported, or transferred (in-country) pursuant to an official written request or directive from the U.S. Department of Defense.

(v) This paragraph authorizes items sold, leased, or loaned by the U.S. De-

partment of Defense to a foreign country or international organization pursuant to the Arms Export Control Act or the Foreign Assistance Act of 1961 when the items are delivered to representatives of such a country or organization in the United States and exported, reexported, or transferred on a military aircraft or naval vessel of that government or organization or via the Defense Transportation Service.

(vi) This paragraph authorizes transfer of technology in furtherance of a contract between the exporter and an agency of the U.S. Government, if the contract provides for such technology and the technology is not "development" or "production" technology for "600 series" items.

(c) *Cooperating Governments.* (1) *Scope.* The provisions of this paragraph (c) authorize exports reexports, and transfers (in-country) of the items listed in paragraph (c)(2) of this section to agencies of cooperating governments. "Agency of a cooperating government" includes all civilian and military departments, branches, missions, and other governmental agencies of a cooperating national government. Cooperating governments are the national governments of countries listed in Country Group A:1 (see Supplement No. 1 to this part) and the national governments of Argentina, Austria, Finland, Hong Kong, Ireland, Korea (Republic of), New Zealand, Singapore, Sweden, Switzerland and Taiwan.

(2) *Eligibility.* (i) *Items for official use within national territory by agencies of cooperating governments.* This license exception is available for all items consigned to and for the official use of any 'agency of a cooperating government' within the territory of any cooperating government, except items excluded by paragraph (c)(3) of this section.

(ii) *Diplomatic and consular missions of a cooperating government.* This license exception is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to this part), except items excluded by paragraph (c)(3) of this section.

(3) *Exclusions.* The following items may not be exported, reexported, or

transferred (in-country) under this paragraph (c):

(i) Items on the Sensitive List (see Supplement No. 6 to part 774 of the EAR), *except* to the countries listed in Country Group A:5 (see Supplement No.1 to this part);

(ii) Items on the Very Sensitive List (see Supplement No. 7 to part 774 of the EAR);

(iii) Encryption items controlled for EI reasons under ECCNs 5A002, 5D002, or 5E002 (see § 740.17 of the EAR for License Exception ENC);

(iv) Regional stability items controlled under ECCNs 6A002.a.1.c, 6E001 “technology” according to the General Technology Note for the “development” of equipment in 6A002.a.1.c, and 6E002 “technology” according to the General Technology Note for the “production” of equipment in 6A002.a.1.c.;

(v) “600 series” items, *except* to the countries listed in Country Group A:5 (see Supplement No. 1 to this part);

(vi) Items controlled for nuclear non-proliferation (NP) reasons;

(vii) Items listed as not eligible for License Exception STA in § 740.20(b)(2)(ii) of the EAR.

(d) *International inspections under the Chemical Weapons Convention (CWC or Convention)*. (1) The Organization for the Prohibition of Chemical Weapons (OPCW) is an international organization that establishes and administers an inspection and verification regime under the Convention designed to ensure that certain chemicals and related facilities are not diverted from peaceful purposes to non-peaceful purposes. This paragraph (d) authorizes exports and reexports to the OPCW and exports and reexports by the OPCW for official international inspection and verification use under the terms of the Convention as follows:

(i) Commodities and software consigned to the OPCW at its headquarters in The Hague for official international OPCW use for the monitoring and inspection functions set forth in the Convention, and technology relating to the maintenance, repair, and operation of such commodities and software. The OPCW must maintain “effective control” of such commodities, software and technology.

(ii) Controlled technology relating to the training of the OPCW inspectorate.

(iii) Controlled technology relating to a CWC inspection site, including technology released as a result of:

(A) Visual inspection of U.S.-origin equipment or facilities by foreign nationals of the inspection team;

(B) Oral communication of controlled technology to foreign nationals of the inspection team in the U.S. or abroad; and

(C) The application to situations abroad of personal knowledge or technical experience acquired in the U.S.

(2) *Exclusions*. The following items may not be exported or reexported under the provisions of this paragraph (d):

(i) Inspection samples collected in the U.S. pursuant to the Convention;

(ii) Commodities and software that are no longer in OPCW official use. Such items must be transferred in accordance with the EAR.

(iii) “600 series” items, *except* to the countries listed in Country Group A:5 (see Supplement No.1 to this part).

(3) *Confidentiality*. The application of the provisions of this paragraph (d) is subject to the condition that the confidentiality of business information is strictly protected in accordance with applicable provisions of the EAR and other U.S. laws regarding the use and transfer of U.S. goods and services.

(4) *Restrictions*. Without prior authorization from the Bureau of Industry and Security, nationals of countries in Country Group E:1 (see Supplement No. 1 to this part) may not physically or computationally access computers that have been enhanced by “electronic assemblies,” which have been exported or reexported under License Exception GOV and have been used to enhance such computers by aggregation of processors so that the APP of the aggregation exceeds the APP parameter set forth in ECCN 4A003.b.

(e) *International Space Station (ISS)*. (1) *Scope*. The ISS is a research facility in a low-Earth orbit approximately 190 miles (350 km) above the surface of the Earth. The ISS is a joint project among the space agencies of the United States, Russia, Japan, Canada, Europe and Italy. This paragraph (e) authorizes exports and reexports required on

short notice of certain commodities subject to the EAR that are classified under ECCN 9A004 to launch sites for supply missions to the ISS.

(2) *Eligible commodities.* Any commodity subject to the EAR that is classified under ECCN 9A004 and that is required for use on the ISS on short notice.

NOTE 1 TO PARAGRAPH (e)(2): This license exception is not available for the export or reexport of "parts," "components," "accessories," and "attachments" to overseas manufacturers for the purpose of incorporation into other items destined for the ISS.

NOTE 2 TO PARAGRAPH (e)(2): For purposes of this paragraph (e), 'short notice' means the exporter is required to have a commodity manifested and at the scheduled launch site for hatch-closure (final stowage) no more than forty-five (45) days from the time the exporter or reexporter received complete documentation. 'Complete documentation' means the exporter or reexporter received the technical description of the commodity and purpose for use of the commodity on the ISS. 'Hatch-closure (final stowage)' means the final date specified by a launch provider by which items must be at a specified location in a launch country in order to be included on a mission to the ISS. The exporter or reexporter must receive the notification to supply the commodity for use on the ISS in writing. That notification must be kept in accordance with paragraph (e)(8) of this section and the Recordkeeping requirements in part 762 of the EAR.

(3) *Eligible destinations.* Eligible destinations are France, Japan, Kazakhstan, and Russia. To be eligible, a destination needs to have a launch for a supply mission to the ISS scheduled by a country participating in the ISS.

(4) *Requirement for commodities to be launched on an eligible space launch vehicle (SLV).* Only commodities that will be delivered to the ISS using United States, Russian, ESA (French), or Japanese space launch vehicles (SLVs) are eligible under this authorization. Commodities to be delivered to the ISS using SLVs from any other countries are excluded from this authorization.

(5) *Authorizations.* (i) *Authorization to retain commodity at or near launch site for up to six months.* If there are unexpected delays in a launch schedule for reasons such as mechanical failures in a launch vehicle or weather, commodities exported or reexported under this paragraph (e) may be retained at or

near the launch site for a period of six (6) months from the time of initial export or reexport before the commodities must be destroyed, returned to the exporter or reexporter, or be the subject of an individually validated license request submitted to BIS to authorize further disposition of the commodities.

(ii) *Authorization to retain commodity abroad at launch country beyond six months.* If, after the commodity is exported or reexported under this authorization, a delay occurs in the launch schedule that would exceed the 6-month deadline in paragraph (e)(5)(i) of this section, the exporter or reexporter or the person in control of the commodities in the launch country may request a one-time 6-month extension by submitting written notification to BIS requesting a 6-month extension and noting the reason for the delay. If the requestor is not contacted by BIS within 30 days from the date of the postmark of the written notification and if the notification meets the requirements of this subparagraph, the request is deemed granted. The request must be sent to BIS at the address listed in part 748 of the EAR and should include the name and address of the exporter or reexporter, the name and address of the person who has control of the commodity, the date the commodities were exported or reexported, a brief product description, and the justification for the extension. To retain a commodity abroad beyond the 6-month extension period, the exporter, reexporter or person in control of the commodity must request authorization by submitting a license application in accordance with §§ 748.1, 748.4 and 748.6 of the EAR to BIS 90 days prior to the expiration of the 6-month extension period.

(iii) *Items not delivered to the ISS because of a failed launch.* If the commodities exported or reexported under this paragraph (e) of this section are not delivered to the ISS because a failed launch causes the destruction of the commodity prior to its being delivered, exporters and reexporters must make note of the destruction of the commodities in accordance with the recordkeeping requirements under paragraph

(e)(8)(ii) of this section and part 762 of the EAR.

(6) *Reexports to an alternate launch country.* If a mechanical or weather related issue causes a change from the scheduled launch country to another foreign country after a commodity was exported or reexported, then that commodity may be subsequently reexported to the new scheduled launch country, provided all of the terms and conditions of paragraph (e) of this section are met, along with any other applicable EAR provisions. In such instances, the 6-month time limitation described in paragraph (e)(5)(i) of this section would start over again at the time of the subsequent reexport transaction. Note that if the subsequent reexport may be made under the designation No License Required (NLR) or pursuant to an authorization under the EAR, a reexporter does not need to rely on the provisions contained in this paragraph (e).

(7) *Eligible recipients.* Only persons involved in the launch of commodities to the ISS may receive and have access to commodities exported or reexported pursuant to this paragraph (e), except that:

(i) No commodities may be exported, reexported, or transferred (in-country) under paragraph (e) to any national of an E:1 country (see Supplement No. 1 to this part), and

(ii) No person may receive commodities authorized under paragraph (e) of this section who is subject to an end-user or end-use control described in part 744 of the EAR, including the entity list in Supplement No. 4 to part 744.

(8) *Recordkeeping requirements.* Exporters and reexporters must maintain records regarding exports or reexports made using this paragraph (e) of this section as well as any other applicable recordkeeping requirements under part 762 of the EAR.

(i) Exporters and reexporters must retain a record of the initial written notification they received requesting these commodities be supplied on short notice for a supply mission to the ISS, including the date the exporter or reexporter received complete documentation (i.e., the day on which the 45-day clock begins).

(ii) Exporters and reexporters must maintain records of the date of any exports or reexports made using this paragraph (e) and the date on which the commodities were launched into space for delivery to the ISS. If the commodities are not delivered to the ISS because of a failed launch whereby the item is destroyed prior to being delivered to the ISS, this must be noted for recordkeeping purposes.

(iii) The return or destruction of defective or worn out parts or components is not required. However, if defective or worn out parts or components originally exported or reexported pursuant to this paragraph (e) are returned from the ISS, then those parts and components may be either: returned to the original country of export or reexport; destroyed; or reexported or transferred (in-country) to a destination that has been designated by NASA for conducting a review and analysis of the defective or worn part or component. Documentation for this activity must be kept for recordkeeping purposes. No commodities that are subject to the EAR may be returned, under the provisions of this paragraph, to a country listed in Country Group E:1 (see Supplement No. 1 to this part) or to any person if that person is subject to an end-user or end-use control described in part 744 of the EAR. For purposes of paragraph (e) of this section, a ‘defective or worn out’ part or component is a part or component that no longer performs its intended function.

[78 FR 22714, Apr. 16, 2013]

§ 740.12 Gift parcels and humanitarian donations (GFT).

(a) *Gift parcels*—(1) *Scope.* The provisions of paragraph (a) authorize exports and reexports of gift parcels by an individual (donor) addressed to an individual, or a religious, charitable or educational organization (donee) located in any destination for the use of the donee or the donee’s immediate family (and not for resale). The gift parcel must be provided free of charge to the donee. However, payment by the donee of any handling charges or of any fees levied by the importing country (e.g., import duties, taxes, etc.) is not considered to be a cost to the donee